

Schlumberger and its employees are proud and loyal residents of the Midland community and have seriously considered and investigated the concerns of its neighbors in Cotton Flat. Schlumberger has fully cooperated with the Texas Commission on Environmental Quality ("TCEQ") and the Environmental Protection Agency in their investigations concerning the breadth and source of the contamination and has voluntarily provided the regulating agencies with unfettered access to Schlumberger's Well Services property and to monitor wells surrounding its property. That cooperation continues today. After testing these and other wells, the TCEQ concluded in its Hazardous Ranking System Report ("HRS Report") published in October 2010 that Schlumberger is not the source of the hexavalent chromium found in the aquifer serving the Cotton Flat neighborhood. A copy of the HRS Report is attached hereto as Exhibit 1. The HRS Report stated:

The ESI sampling data indicates that the first uppermost aquifer (Ogallala aquifer) was impacted with chromium at the B&W facility, *but not at the Schlumberger Technology Corporation facility* or the Williamson Gravel Pit (Ref. 107, pp. 25, 30, 31). The data also indicates that the chromium concentrations increase in the Ogallala aquifer in a down-gradient direction starting near the B&W facility and culminate with the highest values observed at 2601 West County Road 112, just south of the center of the site (Ref. 107, p. 31). *The data establishes that no elevated chromium contamination was observed in the Ogallala aquifer from the background wells in the vicinity of the Schlumberger Technology Corporation facility* and Williamson Gravel Pit. The data suggests that the area defined by the north at the B&W facility via Interstate 20 to the center of the site (2604 W CR 112) is a likely source area for the point of release of chromium to the Ogallala aquifer (Ref. 107, p. 31).

HRS Report at p. 20 (emphasis added).

Undeterred by the facts, on November 15, 2010, Ms. Brockovich and Mr. Bowcock appeared together in Midland again, publicly blaming Schlumberger at a community meeting in the Midland Center (as well as in the press). They announced that, through local counsel Brian Carney, the Girardi law firm of Los Angeles, California had filed a lawsuit against



Schlumberger. Indeed, on November 12, 2010, Petitioners filed a Petition for Depositions before Suit Pursuant to Rule 202 to Investigate Potential Claim or Suit (the "Petition").

In their Petition, Petitioners seek to take pre-suit depositions of ten individuals, nine of whom currently work for Schlumberger. See Petition at 4-6. Petitioners plead that these ten depositions are necessary (1) to perpetuate testimony in an anticipated lawsuit against Schlumberger and (2) to investigate whether they have viable claims against Schlumberger. *Id.* at 2. Petitioners expressly state they anticipate filing a lawsuit against Schlumberger related to the hexavalent chromium found in their well water, including claims for products liability, trespass, fraudulent concealment, and intentional and negligent storage. *Id.* at 2-3.

Petitioners have not complied with Texas Rule of Civil Procedure 202's requirements:

1. As a threshold procedural matter, as of the date of the filing of this Response, Petitioners failed to serve a copy of the Petition on any of the purported Schlumberger corporate entities, despite expressly stating in the Petition that those entities may have interests adverse to Petitioners at any depositions that take place.¹
2. Substantively, Petitioners have pled no facts indicating any reason why the testimony they seek must be perpetuated prior to their filing the anticipated lawsuit, let alone that allowing the pre-suit depositions would prevent a failure or delay of justice. See generally Petition. Moreover, Petitioners failed to plead any facts to establish that the benefits of allowing the pre-suit depositions will outweigh the substantial burden and cost associated with the depositions of ten individuals. *Id.*

¹ On November 22, 2010, this Court ordered Petitioners to "secure personal service on all persons Petitioner seeks to depose no later than 20 days before the hearing." See Order, attached as Exhibit 2. As of the date of the filing of this Response, Petitioners have not served Andrey Mirakyan.